Supreme Court, U.S.
FILED

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No. 96-____

IN THE
Supreme Court of the United States
OCTOBER TERM, 1996

AGENCY RENT-A-CAR, INC.
AND ANTHONY MARCELLUS SLEDGE
Petitioners,

v.

LOUISE HALL
Respondent.

On Petition for Writ of Certiorari
To The District of Columbia Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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51 pp

QUESTIONS PRESENTED

WHETHER THE CUMULATIVE PROCEDURAL PRETRIAL AND TRIAL DECISIONS OF THE COURT DENIED PETITIONERS DUE PROCESS OF LAW IN VIOLATION OF THE 5TH AMENDMENT, WHEN:

(a) PLAINTIFF HALL FAILED TO SUPPLEMENT INTERROGATORY ANSWERS WITH MEDICAL BILLS AND LOSS WAGE INFORMATION BEFORE THE 120 DAY "CUT-OFF DATE" AND TRIAL COURT DENIED PETITIONERS' MOTION IN LIMINE AND MOTION TO STRIKE, FOLLOWING WHICH THE TRIAL DATE WAS POSTPONED AND DURING WHICH POSTPONEMENT PETITIONERS WERE DENIED LEAVE TO DEPOSE RESPONDENT'S MEDICAL EXPERT WITNESSES; AND PLANTIFFS WERE PERMITTED TO INTRODUCE EVIDENCE OF MEDICAL CARE AND LOST WAGES OVER OBJECTIONS AT TRIAL;

(b) TRIAL COURT REQUIRED RESPONDENT SLEDGE'S ATTORNEY TO DISCLOSE HIS TRIAL STRATEGY OF ABSENTING RESPONDENT SLEDGE FROM THE COURTROOM WHEN SLEDGE HAD NOT BEEN SUBPOENAED BY HALL, AND ORDERED SLEDGE TO BE PRESENT, WHICH RESULTED IN HIS BEING CALLED AS A WITNESS BY HALL'S ATTORNEY WHO ELICITED PREDJUDICIAL TESTIMONY ADVERSE TO OWNERSHIP OF THE VEHICLE AND TO THE QUANTUM OF JUDGMENT AGAINST HIM;

(c) RESPONDENT HALL'S ATTORNEY IN OPENING STATEMENT STATED " THE SEVERITY OF THE IMPACT WAS SO GREAT.....A PASSENGER IN MR. SLEDGE'S VEHICLE DIED AS A RESULT OF THIS ACCIDENT", A STATEMENT TOTALLY IRRELEVANT TO THE TRIAL ISSUES, AND FOR WHICH THE TRIAL JUDGE DENIED PETITIONERS' MOTION FOR

MISTRIAL; AND, WHEN RESPONDENT HALL'S ATTORNEY IN CLOSING ARGUMENT STATED "SORRELL'S CLIENT WAS SO DRUNK HE DIDN'T REMEMBER THE ACCIDENT", A STATEMENT UNSUPPORTED BY EVIDENCE TO WHICH PETITIONERS' ATTORNEYS CONTEND THAT THE JUDGE'S 'HUSHER' WAS SO LOUD THAT THE REPORTER FAILED TO RECORD THEIR MOTION FOR A MISTRIAL WHICH ELIMINATED AN ISSUE FOR APPEAL.

(d) THE TRIAL COURT, BASED SOLELY ON RENTAL AGREEMENT WHICH DID NOT IDENTIFY PETITIONER AGENCY AS OWNER OF THE RENTED CAR, INSTRUCTED THE JURY THAT AGENCY WAS THE OWNER.

(e) WHERE THE DISTRICT OF COLUMBIA COURT OF APPEALS TWICE DISMISSED PETITIONERS' BRIEFS ON APPEAL FOR NOT CONFORMING TO IT'S RULE 28 IN "THE CUSTOMARY MANNER" OF ENTERING CASE CITATIONS, RECORD REFERENCES, AND TRANSCRIPT REFERENCES, BUT WITH LEAVE TO AMEND; AND, FOLLOWING THE SECOND DISMISSAL PETITIONER'S ATTORNEY'S MOTHER IN LAW AND FATHER IN LAW BOTH DIED WITHIN A FEW WEEKS TIME WHICH REQUIRED SAID ATTORNEY TO ATTEND THE NEEDS AND COMFORT OF HIS WIFE SO THAT THE PETITION FOR RECONSIDERATION OF THE SECOND DISMISSAL OF THEIR BRIEF, BY AN AMENDED BRIEF WHICH CONFORMED TO THE CUSTOMARY MANNER OF ENTERING CITATIONS AND REFERENCES, NOT WITHSTANDING THAT THE APPELLATE RULE 28 DOES NOT SET FORTH ANY STANDARD OR PARTICULAR MANNER OF ENTERING CITATIONS AND REFERENCES, THE PETITIONERS' APPEALS

WERE DISMISSED WITHOUT CONSIDERATION OF THE MERITS THEREOF.

LISTING OF PARTIES TO PROCEEDINGS BELOW

In addition to the parties shown on the cover, Charles Hall was a plaintiff in the original action, but not a party to the appeal from the judgment of the trial court.

CORPORATE AFFILIATES

At the time of the commencement of this suit Agency Rent-a-Car, Inc., a Delaware Corporation, wholly owned and operated subsidiary car rental businesses under the following names: Agency Rent-a-Car, Altra Auto Rental, Amerex, Automate, and Replacement Rent-a-Car.

During the pendency of this litigation Agency Rent-a-Car, Inc., with its aforenamed subsidiaries, were sold in their entirety to Avis Auto Rental, Inc., whose address is: 900 Old Country Road, Garden City, New York 11530.

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The orders of the District of Columbia Court of Appeals are unreported, and are reprinted as Appendix A. The orders and judgment of the Superior Court of the District of Columbia are also unreported and are reprinted as Appendix B.

JURISDICTIONAL GROUNDS

This Petition is premised upon the jurisdiction of this Court as stated in 28 USC '1257(b). For review are: the trial court order dated October 3, 1994 denying revision of judgment or new trial but entered on the docket "final judgment nunc pro tunc to September 19, 1994"; and, the per curiam orders from the District of Columbia Court of Appeals, filed herewith as Appendix A, which were rendered August 26, 1996, October 17, 1996, December 4, 1996 and January 31, 1997. Petitioners filed a timely petition for reconsideration which was denied by per curiam order rendered March 14, 1997.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

U.S. Const., Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived or life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

D.C. Code § 40-402

MOTOR VEHICLE SAFETY RESPONSIBILITY

(7) "Owner." A person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this subchapter.

D.C. Code § 40-408

MOTOR VEHICLES AND TRAFFIC

Whenever any motor vehicle, after the passage of this subchapter, shall be operated upon the public highways of the District of Columbia by any person other than the owner, with the consent of the owner, express or implied, the operator thereof shall in case of accident, be deemed to be the agent of the owner of such motor vehicle, and the proof of the ownership of said motor vehicle shall be prima facie

evidence that such person operated said motor vehicle with the consent of the owner. (May 25, 1994, 68 Stat. 123, ch. 222, § 8; 1973 Ed., § 40-424.)

STATEMENT OF THE CASE

This is a civil jury trial involving a collision in the District of Columbia between two automobiles. The automobile driven by Petitioner Sledge was rented in Maryland from Petitioner Agency Rent-a-Car, Inc. that did not conduct business in the District of Columbia. Plaintiff, Louise Hall, received a jury verdict in her favor against both Petitioners after the trial judge instructed the jury, inter alia, that as a matter of law Agency Rent-a-Car, Inc., was the owner of the vehicle and as owner DC Code, Title 40-408 rendered Agency Rent-a-Car, Inc. financially responsible for the negligent driving of Sledge. Judgment was entered October 21, 1994.[1]

The federal issue for review arises from the cumulative orders and opinions of the Superior Court of the District of Columbia trial judges and the District of Columbia Court of Appeals panel, filed herein as Appendix A, which demonstrate that Petitioners were denied due process of law as more particularly set forth hereinafter in: Reasons for Allowance of the Writ. Succinctly, the orders were:

> 1) Denying discovery by deposition of medical expert of respondent during a lengthy continuance of trial date;[2]
>
> 2) Compelling petitioner's attorney to disclose his trial strategy of absenting his client, who had not been subpoenaed, from the court room and ordering him to be present, resulting in him disclosing information prejudicial to this case;[3]

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[1] Judgment 10/21/94 entered at Appendix B-13b.

[2] Order denying Petitioners' supplemental motion to depose respondent Hall's experts docketed 4/5/94.

[3] Tr. pp. 169-174, 8/11/94.

3) Denying motion for mistrial for prejudicial comment in opening statement;[4]

4) Adjudging petitioners did not move for mistrial following prejudicial argument by respondent attorney in closing argument;[5]

5) Erroneous instruction to the jury that as a matter of law petitioner Agency was the owner of the vehicle driven by petitioner Sledge and therefore financially responsible for Sledges operation of the vehicle;[6]

6) District of Columbia Court of Appeals dismissing petitioners' appellate brief on August 27, 1996,[7] October 17, 1996,[8] December 4, 1996[9] and January 31, 1997;[10] and, the order dated March 14, 1997,[11] denying the petition to reconsider the dismissal and grant leave to file Petitioners' amended brief.

When the issues were joined in the trial court, an Initial Conference was held and a Scheduling Order entered on July 17, 1992 in accordance with Superior Court Rule of Civil Procedure 16(b).[12] The said Order provided that discovery would be closed 120 days from the date of the order which was specified to be November 17, 1992.

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[4] Tr. pp. 39-44, 8/9/94.

[5] Tr. pp. 66-67, 8/12/94. Upon counsels objection court gave curative instruction at Tr. 67, 8/12/94.

[6] Tr. p. 6, 8/15/94 A.M.

[7] Order 8/27/96 entered Appendix A-4a.

[8] Order 10/17/96 entered Appendix A-6a.

[9] Order 12/4/96 Appendix A-8a.

[10] Order 1/31/97 entered Appendix A-1a.

[11] Order 3/14/97 entered Appendix A-3a.

[12] Civ. Pro. Rule 16(b) entered Appendix C-15c.

Respondent Hall answered Interrogatories on or about October 13, 1992. Answer to Interrogatory #15 indicated that attached to the Answers were medical bills and lost wage information. None such were attached. Because Respondent Hall had not supplied such discovery material by November 17, 1992, on August 17, 1993, Petitioner filed a Motion in Limine requesting that the court disallow Respondent Hall from offering proof of medical and lost wage damages. On or about September 24, 1993 without leave of Court, Respondent Hall attempted to file Supplemental Answers to Interrogatory #15. Petitioners thereupon on October 11, 1993 filed a Motion to Strike the Supplemental Answers. On December 13, 1993,[13] the presiding Judge, denied Petitioners' Motion in Limine. At the "three week meeting", required by Superior Court Civil Rule 16(c).[14] Respondent Hall attempted for the first time to present Petitioners with evidence of Hall's damages. Whereupon, Petitioner on December 31, 1993 moved to postpone the trial. On January 25, 1994, Hall again attempted, without leave of Court, to supplement Answers to Interrogatories. Petitioners' Motion to Postpone was denied on January 26, 1994.[15] Petitioners again moved to strike the Supplemental Answers by Motion filed January 31, 1994. Thereupon, on or about February 14, 1994, by appropriate Motion Petitioners requested the Court's leave to conduct discovery, to wit: to depose those experts named by Hall following the close of discovery. On or about February 25, 1994, Petitioner filed a new Motion in Limine, again addressing discovery tendered by Hall following the close of discovery. On or about February 27, 1994,[16] the presiding

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[13] Denial docketed 12/20/93.

[14] Civ. Pro. Rule 16(c) entered Appendix C-17c.

[15] Denial on 1/26/94 entered on docket 1/27/94.

[16] Denial docketed 3/17/94.

Judge denied Petitioners' Motions In Limine and Motions to Strike. On March 5, 1994,[17] the Court having been unable to try the case on that assigned date, ordered the case rescheduled for August 8, 1994. On or about March 29, 1994, Petitioners filed a Supplemental Motion for Leave to depose Respondent's expert witnesses which was denied on April 7, 1994. The trial commenced on or about August 9, 1994, without Petitioners having had discovery beyond their Interrogatories.

Relative to the Voir Dire process, the court, over Sledge's counsel's objection, ordered Sledge to be present for the proceeding.[18]

In opening statement Respondent Hall's counsel, stated "that the severity of the impact was so great...a passenger in Mr. Sledge's vehicle died as a result of this accident.". Petitioners objected to that statement and moved for a mistrial. The Court denied the Motion for a Mistrial and instructed the jury not to consider reference that had been made concerning the passenger in Mr. Sledge's car.[19]

During the trial, Petitioners renewed their objection to the testimony of Respondent and her treating physicians for the reasons heretofore stated which objection was overruled and their testimony was admitted.[20]

In closing argument, counsel for Hall argued to the jury that Sledge was so drunk that he cannot remember...that he cannot even remember the fact of the accident. Petitioners objected, approached the Bench and moved for mistrial for the prejudicial statement of counsel. The motion was denied. (The record of this is missing.)

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[17] Order 3/5/94 continuing trial date from 3/5/94 to 8/8/94 Appendix B-10b.

[18] See footnote 3 *supra.*

[19] See footnote 4 *supra.*

[20] Tr. pp. 77, 81-90, 8/9/94 P.M.; Tr. p. 93, 8/11/94 A.M.; Tr. pp. 88-190, 8/11/94, P.M.

At the conclusion of the case, Petitioners moved for a directed verdict in favor of Petitioners for reason that Respondent Hall had failed to introduce any evidence of ownership of the vehicle driven by Sledge.[21] The Court denied the Motion.

Following the jury's verdict, Petitioners on September 26, 1994, filed Motions to Revise the Judgment or for a New Trial which the trial Court denied on October 3, 1994.[22] Petitioners then noted their Appeals to the District of Columbia Court of Appeals.

Relative to the preparation of the record and the transcript, Petitioners determined that portions of the transcript were missing, and, filed in the DC Court of Appeals a Motion to Remand the case for a New Trial for reason of their inability to locate the missing portions of the transcript, which would demonstrate the error assigned: that Petitioners moved for mistrial for the prejudicial statement of Hall's attorney in closing argument that "Sledge was so drunk that he cannot remember the facts of the accident". The Appellate Court on April 23, 1996 granted leave to Petitioners to seek such relief under Appellate Rule 10(d) through the Trial Court. The trial judge by memorandum opinion dated July 5, 1996, concluded that "two portions of the proceedings cited by the Defendants are, indeed missing from the record", but that existing record supplies adequate support, notwithstanding, and the Court fails to find any prejudice; and, "that no bench conference was held at the onset of Plaintiffs closing rebuttal argument at which defense counsel moved for mistrial"; and, denied Defendants' (Petitioners herein) motion.

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[21] See footnote 6 *supra*. Also see Tr. pp. 219-221, 8/11/94 P.M.; Tr. pp. 5-6, 6, 23-24, 29, 8/15/94 A.M.

[22] Order 10/3/94 entered at Appendix B-11b.

Thereupon , the Appellate Court on August 27, 1996, granted respondent Hall's motion to strike petitioners' brief with leave to file within 20 days a brief conforming to Appellate Rule 28. Petitioners filed their brief with citations and references in separate paragraphs instead of proximally to the substantive text of the brief. Again on motion of respondent, the Appellate Court on October 17, 1996, dismissed Petitioners' brief with leave to resubmit in compliance with Rule 28 within 15 days. Untimely, two deaths in the family of Counsel for Agency Rent-a-Car prevented him from filing his brief within the 15 day period and his motion for extending time was not granted and the Appeals were again dismissed by order 12/4/96.[23] After consultation with outside counsel more familiar with the form of appellate brief writing, Petitioners on February 13, 1997, filed a Petition To Reconsider The Dismissal of their brief and grant leave to file an amended brief which they submit complies with Appellate Rule 28 and causes no prejudice to Respondent. On March 14, 1997,[24] the Appellate Court denied the petition to file the amended brief.

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[23] See footnote 9 *supra.*

[24] See footnote 11 *supra.*

REASONS FOR GRANTING THE PETITION

Petitioners recognize that they did not specifically inform the Trial Court during the proceedings nor the District of Columbia Court of Appeals[25] that the totality of the issues presented herein to this U.S. Supreme Court constituted a denial of Petitioners entitlement to due process of law guaranteed under the U.S. Constitution, Amendment V. Petitioners contend that the D. C. Court of Appeals, designated a State Court of Appeals,[26] has decided an important federal question in a way that conflicts with relevant decisions of this Court. The accumulation of rulings unfavorable to petitioners by the trial court, (1) not reasonably or adequately based on evidence and by questionable rulings and sometimes in violation of Superior Court Rules of practice, particularly Rule 16(b) and (c)[27] (2) the dismissals of appeal of petitioners for not complying with Appellate Rule 27[28] and 28[29] , and (3) denial of the petition for reconsideration of dismissal by order dated March 14, 1997 together rise to denial to the petitioners of due process of law guaranteed them by the U.S. Constitution, Amendment V.

Petitioners respectfully submit that this Court has described the ways in which the validity of a State statute, which Petitioners believe includes court rules of procedure, by the disregard thereof in trial proceedings may be an acceptable basis upon which this Court will favorably exercise its discretion in granting the writ of certiorari. Supporting this contention are statements of this Court in the following cases:

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[25] Appellate Rule 53 requires notice to the Court when appeal contends a D.C. Council enactment is unconstitutional or invalid. Rule 53 is not applicable to this appeal.

[26] 28 U.S. Code 1257(b).

[27] Superior Court Rule 16(b) and (c) at Appendix C-15c and C-17c.

[28] Rule 27 entered at Appendix C-19c.

[29] Rule 28 entered at Appendix C-22c.

People of State of New York v. Zimmerman, 278 US 63, 67-68, 49 S.Ct. 61, 63, 73 L. Ed. 184 (1928)

(2) There are various ways in which the validity of a state statute may be drawn in question on the ground that it is repugnant to the Constitution of the United States. No particular form of words or phrases is essential, but only that the claim of invalidity and the ground therefor be brought to the attention of the state court with fair precession and in due time. And if the record as a whole shows either expressly or by clear intendment that was done, the claim is to be regarded as having been adequately presented.

> *Chambers v. Mississippi*, 410 US 284, 291, 93 S.Ct. 1038, 1043, 35 L. Ed.2nd 297 (1973) "Unlike *Henry v. Mississippi*, 379 U.S. 443, 85 S.Ct.564, 13 L. Ed. 2nd 4808 (1965), this case does not involve the state procedural requirement of contemporaneous objection to the admission of evidence. Petitioner's contention, asserted before the trial court on motion for new trial and subsequently before the Mississippi Supreme Court, is that he was denied "fundamental fairness guaranteed by the Fourteenth Amendment" as a result of several evidentiary rulings. His claim, the substance of which we accept in this opinion, rests on the cumulative effect of those rulings in frustrating his efforts to develop an exculpatory defense. Although he objected to each ruling individually, petitioner's constitutional claim – based as it is on the cumulative impact of the rulings – could not have been raised and ruled upon prior to the conclusion of Chambers' evidentiary

> presentation. Since the State has not asserted any independent state procedural ground as a basis for not reaching the merits of petitioner's constitutional claim, we have no occasion to decide whether – if such a ground exists – its imposition in this case would serve any "legitimate state interest." Id., at 447, 85 S.Ct., at 567. Under this circumstance, we cannot doubt the propriety of our exercise of jurisdiction.
>
> *Eddings v. Oklahoma*, 455 US 104, 113, 114 (1982), 102 S.Ct. 869, 71 L. Ed. 2nd 1. (1982). "In short, although neither the opinion of the Court of criminal appeals nor Edding's petition for certiorari spoke to our decision in *Lockett* by name, the question of whether the decisions below were consistent with our decision in *Lockett* is properly before us. Our jurisdiction does not depend on citation to book and verse. See, e.g. *New York ex rel Bryant v Zimmerman*, 278 US 63, 67, 49 S.Ct. 61, 63, 73 L. Ed. 184 (1928)

Petitioners' trial was subject to Superior Court Civil Rule 16 which petitioners' submit respondents disregarded and in the face of the clear mandate of which the trial court permitted respondents to supplement their discovery and utilize the evidence therefrom in the trial to the detriment of petitioners; after having denied petitioners the opportunity to conduct discovery relative thereto during the lengthy trial continuance from March 5 to August 8, 1994. With regard to the Court's view of Rules, *Wright v. Mathias,* Mun. App. DC 128 A.2d 658 (1957), stated that: "the rules of Court are equally binding on judges and litigants." Also in *D.D. v. M.T.*, App. DC, 550 A.2d 37 (1988), the Court spoke to the "full and unstinting compliance with their commands"....

This Court's rule 10 provides:

> "…. "A petition for a writ of certiorari will be granted only for compelling reasons. The following although neither controlling nor fully measuring the Court's discretion, indicate the character of the reason the court considers:
>
> (c) "a state court or a United States Court of Appeals……, or has decided an important federal question in a way that conflicts with relevant decisions of this court."

It is not so much the trial courts fact finding errors, such as finding that petitioners did not move for a mistrial during respondent attorneys inflammatory remarks in closing argument: "Sorrell's client was so drunk he didn't remember the accident", but by the disregard of its own Rule 16 in refusing to strike or limit medical expense and lost earnings in the pretrial discovery procedures and permitting it into evidence in the trial to petitioners detriment. And, it is also that the District of Columbia Court of Appeals dismissed Petitioners appeal for noncompliance with it's Appellate Rule 28 because of repeated citations of facts and events not contained in the record, and apparently for not entering the reference citations in the manner customarily used in appellate briefs. Petitioners here urge that all facts in their brief are supported by the record of the trial and the record on appeal, but at no point have the D.C. Court of Appeals' orders of dismissal set forth any variation of the facts or events from the record, and indeed, Appellate Rule 28 does not specify any manner or style of entering citations of statutes, case authorities, or record references.

This Court's Rule 10(c) in describing the character of reasons necessary for the grant of certiorari, provides, infra, as "….an important federal question in a way that conflicts with relevant decisions of this Court." In petitioners' case the challenged decisions of the trial court alone would not have been an adequate state law basis that conflicts with relevant decisions of this Court. However, when the District of

Columbia Court of Appeals never allowed the appeal for its review of the unfair process in the trial court by striking petitioners' briefs under Rule 28 and denying reconsideration of its January 31, 1997 order, then such misapplication by both lower courts of their own rules speaks to the denial of due process guaranteed by Amendment V; thus cumulatively such denial is in conflict with relevant decisions of this Court.

More specifically stated, petitioners submit that Appellate Rule 28 is repugnant to "due process" because it does not set forth guidelines explicitly enough for persons, including practicing attorneys not experienced in brief writing in the D.C. Courts, or provide examples so the attorney may understand the court's basis for rejection of the briefs by orders dated August 26, 1996, October 17, 1996, and thusly be able to submit their brief satisfactorily to the appellate panel.

This court in *Pernell v. Southall Reality*, 416 US 363, 367, 94 S.Ct. 1723, 1726, 40 L. Ed. 2nd 198 (1974) stated,

> "Congressional Acts directed toward the District, like other federal laws, admittedly come within this Courts Art. III, jurisdiction, and we are not therefore barred from reconsidering a state court's interpretation of a state statute. See cases cited.... But the new court structure certainly lends additional support to our longstanding practice of not overruling the courts of the District on local law matters "save in exceptional situations where egregious error has been committed."

This Court then concluded there was no obvious error and accepted the Court of Appeals conclusion that the right to jury trial must stand or fall on constitutional ground after the repeal of §13-702. This Court then considered the case on the basis of the 7th Amendment issue.

Petitioners herein submit that the cumulative errors in the trial process and the dismissal of the appeal by the D.C. Court of Appeal constitute an egregious error violating Petitioners' Fifth Amendment right.

CONCLUSION

Based on the misapplication of the D.C. Statutes and Rules of the Superior Court and the Court of Appeals and the orders entered thereunder, the accumulation of those errors and misapplications rise to the violation of both petitioners' Fifth Amendment constitutional guarantee of due process. The Petitioners, therefore, respectfully request this Court to grant the Writ of Certiorari.

Respectfully submitted,

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APPENDIX

APPENDIX A

[District of Columbia Court of Appeals Filed 1-31-97]

District of Columbia Court of Appeals
Nos. 94-CV-1375, 94-CV-1397, 95-CV-516 & 95-CV-517
ANTHONY MARCELLUS SLEDGE
AND AGENCY RENT-A-CAR, INC.
Appellants
CA5265-92
v.
LOUISE HALL
Appellee

BEFORE: Terry and Schwelb, Associate Judges, and Belson, Senior Judge.

ORDER

On consideration of this court's December 4, 1996, order which directed appellants to file, within 15 days from the date of the order, briefs conforming with D.C. App. R. 28, appellants' motions for extension of time to file briefs, appellee's motion to dismiss consolidated appeals, and the oppositions thereto, and it appearing that appellants have repeatedly cited facts and events that are not contained in the record, in disregard of D.C. App. R. 28 and this court's previous orders, and it further appearing that appellants have had briefs struck on three prior occasions because of citation to facts and events not contained in the record, and have failed to file their briefs pursuant to this court's December 4, 1996, order, it is

ORDERED that appellee's motion to dismiss the consolidated appeals is granted, and these appeals are hereby dismissed. It is

FURTHER ORDERED that appellants' motions for extension of time to file their briefs is denied as moot.

PER CURIAM

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[District of Columbia Court of Appeals Filed 3/14/97]

District of Columbia Court of Appeals

Nos. 94-CV-1375, 94-CV-1397, 95-CV-516 & 95-CV-517

ANTHONY MARCELLUS SLEDGE
AND AGENCY RENT-A-CAR, INC.
Appellants
CA5265-92
v.
LOUISE HALL
Appellee

BEFORE: Terry and Schwelb, Associate Judges, and Belson, Senior Judge.

ORDER

On consideration of appellants' motion to reconsider this court's January 31, 1997, order dismissing these appeals and to lodged an amended brief, the opposition, and replies thereto, it is

ORDERED that appellants' motion to reconsider and to file an amended brief is denied.

PER CURIAM

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[District of Columbia Court of Appeals Filed 8/27/96]

District of Columbia Court of Appeals

Nos. 94-CV-1375 & 95-CV-517

ANTHONY MARCELLUS SLEDGE,

Appellant CA5265-92

and

Nos. 94-CV-1397 & 95-CV-516

AGENCY RENT-A-CAR,

Appellant CA5265-92

v.

LOUISE HALL

Appellee

BEFORE: Terry and Schwelb, Associate Judges, and Belson, Senior Judge.

ORDER

On consideration of this court's April 23, 1996, order holding all pending motions in abeyance pending resolution of a motion filed in the trial court, appellee's consent motion for an extension of time within which to file her brief and the response of Agency Rent-A-Car thereto, appellee's motion to strike the briefs of appellants, the opposition filed by Agency Rent-A-Car, the reply and response thereto, and the motions of appellant Agency Rent-A-Car and appellant Anthony Sledge to amend their brief by interlineation, the opposition and replies thereto, and the lodged amended briefs, the status reports and a copy of the trial court's order denying appellants' motions to supplement the record, appellant Sledge's and Rent-A-Car's motions for summary reversal, the oppositions and reply thereto, and appellee's renewed motion to strike the briefs of both appellants, it is

ORDERED that appellant Rent-A-Car's motion for leave to amend its brief by interlineation is denied. It is

FURTHER ORDERED that appellant Sledge's motion for leave to amend his brief by interlineation is denied. It is

FURTHER ORDERED that appellant Rent-A-Car's motion for summary reversal is denied. It is

FURTHER ORDERED that appellant Sledge's motion for summary reversal is denied. It is

FURTHER ORDERED that appellee's motions to strike the briefs of appellant Rent-A-Car and Sledge are granted and these briefs are hereby struck. It is

FURTHER ORDERED that appellants shall, within 20 days from the date of this order, file briefs conforming with D.C. App. R. 28. The brief of appellee shall be due 30 days thereafter. It is

FURTHER ORDERED that appellee's motion for an extension of time within which to file her brief is denied as moot.

PER CURIAM

Copies to:
Honorable Zinora Mitchell-Rankin
Clerk, Superior Court
Roger N. Powell, Esquire
107 Old Court Road
Baltimore, MD 21208
John B. Sorrell, Esquire
866 Bayview Drive
Edgewater, MD 21037
Lawrence S. Lapidus, Esquire
7475 Wisconsin Avenue, Suite 800
Bethesda, MD 20814

[Court of Appeals filed 10/17/96]

District of Columbia Court of Appeals

Nos. 94-CV-1375, 94-CV-1397, 95-CV-516 & 95-CV-517

ANTHONY MARCELLUS SLEDGE
AND AGENCY RENT-A-CAR, INC.
Appellants
CA5265-92
v.
LOUISE HALL
Appellee

BEFORE: Terry and Schwelb, Associate Judges, and Belson, Senior Judge.

ORDER

On consideration of this court's August 27, 1996, order which directed appellants to file, within 20 days from the date of the order, briefs conforming with D.C. App. R.28 the briefs of appellants filed on September 16, 1996, appellee's motion for enlargement of time within which to file her brief and the responses of Agency Rent-A-Car, Inc. and Anthony Sledge thereto, appellee's motion to strike the briefs of appellants and to dismiss consolidated appeals, the oppositions filed by Agency Rent-A-Car, Inc. and Anthony Sledge, appellee's replies thereto, and appellant Agency Rent-A-Car, Inc.'s response thereto, it is

ORDERED that appellant, Agency Rent-A-Car, Inc.'s response to appellee's reply to the answer to the motion to strike and to dismiss appeal is hereby struck from the record for failure to comply with D.C. App. R. 27 (a). It is

FURTHER ORDERED that appellee's motion to strike briefs of appellants and to dismiss consolidated appeals is granted to the extent that appellants are ordered to file briefs in compliance with D.C. App. R. 28 within 15 days or the appeals may be dismissed. It is

FURTHER ORDERED that appellee's motion for enlargement of time within which to file a brief is denied as moot.

PER CURIAM

Copies to:
Clerk, Superior Court
Roger N. Powell, Esquire
107 Old Court Road
Baltimore, MD 21208
John B. Sorrell, Esquire
866 Bayview Drive
Edgewater, MD 21037
Lawrence S. Lapidus, Esquire
7475 Wisconsin Avenue, Suite 800
Bethesda, MD 20814

[District of Columbia Court of Appeals Filed 12-4-96]

District of Columbia Court of Appeals
Nos. 94-CV-1375, 94-CV-1397, 95-CV-516 & 95-CV-517
ANTHONY MARCELLUS SLEDGE
AND AGENCY RENT-A-CAR, INC.
Appellants
CA5265-92
v.
LOUISE HALL
Appellee

BEFORE: Terry and Schwelb, Associate Judges, and Belson, Senior Judge.

ORDER

On consideration of this court's October 17, 1996, order which directed appellants to file, within 15 days from the date of the order, briefs conforming with D.C. App. R. 28, the briefs of appellants filed on October 28, 1996 and October 29, 1996, appellee's motion for enlargement of time within which to file her brief and their appearing to be no opposition thereto, appellant, Agency Rent-A-Car, Inc.'s motion requesting a ruling that appellee's having failed to file a brief opposing appellant's contentions, has thereby admitted by failing to deny, construed as a motion to submit without appellee's brief, and the opposition thereto, appellee's motion to strike the briefs of appellants and to dismiss consolidated appeals, the oppositions filed by Agency Rent-A-Car, Inc. and Anthony Sledge, appellee's replies thereto, and appellants responses thereto, and appellee's reply thereto, it is

ORDERDED that appellant, Agency Rent-A-Car, Inc.'s motion requesting a ruling, construed as a motion to submit without appellee's brief is denied. It is

FURTHER ORDERED that appellants' responses to appellee's reply to the answer to the motion to strike and to dismiss appeal, and the reply and response thereto are hereby struck for failure to comply with D.C. App. R. 27 (a). It is

FURTHER ORDERED that appellee's motion to strike the briefs of appellants and to dismiss the consolidated appeals is granted to the extent that appellants shall, within 15 days from the date of this order, file briefs in compliance with D.C. App. R. 28 or the appeals may be dismissed. It is

FURTHER ORDERED that appellee's motion for enlargement of time within which to file a brief is denied as moot.

PER CURIAM

Copies to:
Clerk, Superior Court
Roger N. Powell, Esquire
107 Old Court Road
Baltimore, MD 21208
John B. Sorrell, Esquire
866 Bayview Drive
Edgewater, MD 21037
Lawrence S. Lapidus, Esquire
7475 Wisconsin Avenue, Suite 800
Bethesda, MD 20814

APPENDIX B

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

Civil Action No. 92-5265

LOUISE HALL, et al.

Plaintiffs,

vs.

AGENCY RENT-A-CAR., et.al.

Defendants,

SCHEDULING ORDER

This matter was originally scheduled for trial on February 28, 1994, at 9:30 a.m. However, the Court was already in trial and carried this matter over until March 2, 1994. The Court was unable to reach this matter on that date. Accordingly, it is this 5th day of March, 1994,

ORDERED that the trial in this matter shall be scheduled on Monday, August 8, 1994, at 9:30 a.m., in Courtroom 211.[1]

SO ORDERED.

/s/ Zinora M. Mitchell-Rankin
Zinora M. Mitchell-Rankin
Associate Judge - Signed in Chambers

Copies to:
Lawrence S. Lapidus, Esquire
51 Monroe Street, Suite 1801
Rockville, Maryland 20850
Roger N. Powell, Esquire
107 Old Court Road
Baltimore, Maryland 21208

---

[1] This date represents the first available trial date for all counsel in this matter.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

Civil Action No. 92CA05265
LOUISE HALL, et al.
Plaintiffs,
vs.
AGENCY RENT-A-CAR., et.al.
Defendants,

ORDER

Upon consideration of defendant Anthony Marcellus Sledge's motion for new trial and/or amendment of judgment, plaintiff's opposition thereto, it is by this Court this 3rd day of October, 1994, hereby,

ORDERED, that defendant Anthony Marcellus Sledge's motion for new trial and/or amendment of judgment be, and the same hereby is, DENIED.

Since the jury's verdict is amply supported by the evidence and Defendant's have not, beyond conclusory assertions, demonstrated otherwise, and it is further Ordered that the Clerk of the Court shall enter final judgment nunc pro tunc to September 19, 1994 [the date the Court ruled on the remaining trial issue], pursuant to R. 58, and it is further Ordered, that the request for a hearing be and hereby denied.

/s/ Zinora Mitchell-Rankin
Zinora Mitchell-Rankin
Associate Judge

Copies to:
Lawrence S. Lapidus, Esquire
Chaikin & Karp, P.C.
51 Monroe Street, Suite 1801
Rockville, Maryland 20850
Roger N. Powell, Esquire
107 Old Court Road
Baltimore, Maryland 21208
John Sorrell, Esquire
866 Bayview Drive
Edgewater, Maryland 21037

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

Civil Action No. 5265-92

LOUISE HALL and CHARLES HALL,
individually and as husband and wife
Plaintiffs,

vs.

AGENCY RENT-A-CAR, INC.
ANTHONY MARCELLUS SLEDGE
Defendants,

JUDGMENT

This action came on for trial before the court and a jury, Honorable Zinora Mitchell-Rankin, Superior Court Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict, it is the 21st day of October, 1994, nunc pro tunc to September 19, 1994

ORDERED

(1) That the plaintiff LOUISE HALL recover of the defendants ANTHONY MARCELLUS SLEDGE and AGENCY RENT-A-CAR the sum of $365,000.00 with interest thereon from September 19, 1994 at the rate of six per cent as provided by law, and her costs of action.

FURTHERED ORDERED

(2) That the plaintiff CHARLES HALL take nothing, that the action be dismissed on the merits, and that the defendants ANTHONY MARCELLUS SLEDGE and AGENCY RENT-A-CAR recover of the plaintiff CHARLES HALL their costs of action.

DUANE B. DELANEY, JR., ESQ.
Clerk of the Court

cc: Lawrence S. Lapidus, Esq.
Roger N. Powell, Esq.
John B. Sorrell, Esq.

By /s/ M. Reid
M. Reid
Deputy Clerk

APPENDIX C

Superior Court Rules of Civil Procedure

Rule 16

(b) *Initial scheduling and settlement conference.* In every case assigned to a specific calendar or a specific judge, an initial scheduling and settlement conference shall be held as soon as practicable after the complaint is filed. At that conference the judge will ascertain the status of the case, explore the possibilities for early resolution through settlement or alternative dispute resolution techniques, and determine a reasonable time frame for bringing the case to conclusion. After consulting with the attorneys for the parties and with any unrepresented parties, the judge will place the case on one of several alternative time tracks and will enter a scheduling conference order which will set dates for future events in the case. The order will generally include dates for the following events.

(1) Deadline for Discovery Requests: No interrogatories, requests for admission, requests for production or inspection, or motions for physical or mental examinations may be served after this date. Only party depositions ad testificandum and nonparty depositions duces tecum or ad testificandum may be noticed after this date.

(2) Exchange Lists of Fact Witnesses: On or before this date, each party must file and serve a listing, by name and address, of all fact witnesses known to that party, including experts who participated in, and will testify about, pertinent events. No witness may be called at trial, except for rebuttal or impeachment purposes, unless he or she was named on the list filed by one of the parties on or before this date or the calling party can establish that it did not learn of the witness until after this date.

(3) Proponent's Rule 26 (b) (4) Statement: By this date a statement comporting with Rule 26 (b) (4) must be filed and served by any proponent of an issue (a party asserting a claim or an affirmative defense) who will offer an expert opinion on such an issue.

(4) Opponent's Rule 26 (b) (4) Statement: By this date a statement comporting with Rule 26 (b) (4) must be filed and served by an opponent who will offer an expert opinion on such an issue.

(5) All Discovery Closed: After this date, no deposition or other discovery may be had, nor motion relating to discovery filed, except by leave of court.

(6) Deadline for Filing Motions: All motions must be filed by this date, except as provided in paragraphs (b) (5) and (d) (6) of this Rule.

The scheduling conference order may also set dates for the joinder of other parties and amendment of pleadings, the completion of certain discovery, the filing of particular motions and legal memoranda, and any other matters appropriate in the circumstances of the case. The order will also ordinarily specify a date by which dispositive motions will generally be decided, a time period in which mediation or other alternative dispute resolution proceedings will be held, and a time period in which the final pretrial and settlement conference will be held.

All counsel and all parties must take the necessary steps to complete discovery and prepare for trial within the time limits established by the scheduling order. The scheduling order may not be modified except by leave of court upon a showing of good cause; stipulations between counsel shall not be effective to change any deadlines in the order without court approval, provided, however, that any date in the scheduling order except for the date of court

proceedings (e.g. status hearings, ex parte proofs, ADR sessions, pretrials and trials) may be extended once for up to 14 days upon the filing and delivery to the assigned judge of a praecipe showing that all parties who have appeared in the action consent to such extension. Any motion to further modify a date so extended must recite that the date in question was previously extended by consent and must specify the length of that extension.

(c) *Meeting three weeks prior to pretrial conference.* Not less than three weeks prior to the pretrial conference, at least one of the attorneys who will conduct the trial for each of the parties, and any unrepresented parties, shall meet. If such persons are unable to agree on other arrangement, the meeting shall be held at 9:00 a.m. at the courthouse on that day which is three weeks prior to the date of the pretrial conference. The participants in the meeting shall spend sufficient time together to thoroughly discuss the case and shall endeavor to reach agreement on the following matters:

(1) the formulation and simplification of the issues, including the elimination of frivolous claims or defenses;

(2) the necessity or desirability of amendments to the pleadings;

(3) the possibility of obtaining admissions of facts and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings for the court on the admissibility of evidence;

(4) the avoidance of unnecessary proof and of cumulative evidence;

(5) the identification of witnesses and documents;

(6) the advisability of referring matters to a commissioner or master;

(7) settlement of the case or the use of extrajudicial procedures to resolve the dispute;

(8) the form and substance of the pretrial order;

(9) the disposition of pending motions;

(10) the need for adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions or unusual proof problems; and

(11) such other matters as may aid in the disposition of the action.

Rule 27. Motions.

(a) *Content of motions; response or opposition; reply.* Unless another form is prescribed elsewhere by these rules, an application for an order or other relief shall be made by filing a motion with the clerk. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion. It shall state with particularity the grounds on which it is based, and shall clearly set forth the order or relief sought. If a motion is to be supported by memoranda, affidavits, or other papers, they shall be attached and served with the motion. Any party may file a response or opposition to a motion within seven days after service of the motion, but the court may shorten or extend this time. The response or opposition shall not include a motion for other affirmative relief against the moving party. A party filing a response or opposition who desires to submit such a motion shall do so by a separate pleading. A reply to a response or opposition may be filed within three days after service of the response or opposition, but the reply shall not reargue propositions presented in the motion nor present matters which are not strictly in reply to the opposition. No further pleading may be filed except by leave of court for extraordinary cause.

(b) *Who may file.* Any party may file a motion. When a party is represented by counsel, the individual party shall not file a motion or pleading, except for a motion to discharge or vacate the appointment of counsel, which the clerk shall transmit to counsel of record for that party.

(c) *Procedural motions.* Motions to consolidate cases shall be filed promptly after the moving party becomes aware of grounds for consolidation. Other procedural motions that affect the calendaring of the case may be filed from the date

the appeal is docketed until 30 days after notification from the clerk that the record on appeal, including all transcripts, has been filed in the office of the clerk. All other procedural motions may be filed at any time. Notwithstanding the provisions of section (a), motions for procedural orders may be acted upon by a single judge, at any time, without awaiting the filing of a response or opposition.

(d) *Clerk may grant procedural motions.* The clerk, may grant for the court procedural motions which are ordinarily granted as of course, and if, in the opinion of the clerk, the granting of the motion would not prejudicially delay the work of the court. Orders by the clerk granting motions shall be entered on the docket. A party adversely affected by an order so entered shall be entitled to reconsideration thereof if, within ten days after the date of the order, that party serves and files a motion for reconsideration, setting forth the grounds therefor. The clerk shall submit the motion for reconsideration to the Chief Judge or Acting Chief Judge.

(e) *Form of papers; number of copies.* All papers relating to motions may be typewritten and shall be on opaque white paper, approximately 11 inches long and 8½ inches wide, without back or cover. Until January 1, 1991, papers may continue to be submitted on legal size paper. The papers shall be fastened at the top left corner with pages numbered at the bottom of each page. All typing shall be double spaced except for footnotes and quotations which may be indented. The first page shall contain the name of the court, the number and caption of the case, and the purpose of the motion. Four copies shall be filed with the clerk, except that when en banc consideration is required or requested, ten copies shall be filed. The clerk may require that additional copies be furnished.

(f) *Clerk may refuse to file.* If a motion does not conform to the rules or is not legible, the clerk may refuse to file it.

(g) *Summary disposition motions.* Any party may file a motion for summary affirmance or summary reversal. An appellant who intends to file a motion for summary disposition shall inform the court in writing within 15 days after notification from the clerk that the record on appeal, including transcript, has been filed. An appellee who intends to file a motion for summary disposition shall inform the court in writing within 15 days from the date the brief of appellant is served on appellee. Any such motion for summary disposition shall be filed within 25 days after the date on which the movant informed the court of the intent to file the motion. The filing of a dispositive motion shall stay the briefing schedule unless otherwise ordered by the court. If a memorandum of law was previously field in the Superior Court, it may be attached as an appendix to the motion. Responsive pleadings may be filed pursuant to the provisions of section (a) of this rule. A cross-motion for summary disposition may be filed in lieu of a response to a motion for summary disposition. If counsel deems it appropriate, a statement may be included in the motion or responsive pleading indicating that the motion or responsive pleading may be treated as the brief of the party if the court denies the motion or defers consideration on the merits. If the pleadings are treated as the briefs, the clerk shall promptly schedule the case for argument or submission.

(h) *Citations in motions.* The provisions of Rule 28 (h), governing citations in briefs, shall also apply to citations in motions and in all other papers filed with the court. (Amended, Sept. 6, 1990; Nov. 9, 1990.)

Rule 28. Contents of briefs.

(a) *Brief of the appellant.* The brief of the appellant shall contain a title page, on which shall appear the number and caption of the case in this court, the name(s) of counsel filing the brief, indicating, if then known, the name of counsel who will argue the appeal, (where counsel has been appointed to represent a party, a notation to that effect should appear beneath counsel's name), and the type of appeal or proceeding. The remainder of the brief shall contain under appropriate headings and in the order here indicated:

(1) A certificate of counsel. In all civil and agency cases a certificate shall be furnished by counsel of record for all private (non-governmental) parties, including specifically all appellants and all appellees, as well as all intervenors and amici, setting forth a complete list of all parties and amici who have appeared below. Whenever a corporation is a party or amicus, the certificate of counsel for that party or amicus shall also list all parent companies, subsidiaries and affiliates of that party or amicus. Whenever a partnership is a party or amicus, the certificate of counsel for that party or amicus shall also list all partners, including silent partners. This certificate shall appear on the first page of each brief after the title page, before the table of contents. The purpose of this certificate is to enable the judges of this court to consider possible disqualification or recusal and to determine the time and alignment of parties for oral argument. The form of the certificate shall be as follows:

"[Number and Title of Case]
Certificate required by Rule 28 (a) (1)
of the Rules of the District of
Columbia Court of Appeals:

The undersigned, counsel of record for ...., certifies that the following listed parties and amici (if any) appeared below: (Here list added names of all such parties and amici (in addition, counsel for a party or amicus which is a corporation shall here list all parent companies, subsidiaries and affiliates of that corporation), and indicate the position the respective parties and any amici take with regard to the order(s) or judgment(s) under review.)

These representations are made in order that judges of this court, inter alia, may evaluate possible disqualification or recusal.

.....

Attorney of record for ...."

(2) A table of contents, with page references, and a table of cases alphabetically arranged with asterisks placed before the cases chiefly relied upon, statutes, rules, regulations, and other authorities cited, with references to the pages of the brief where they are cited.

(3) A statement of the issues presented for review.

(4) A statement of the case. The statement shall first indicate briefly the nature of the case, the course of proceedings, and its disposition in the court or agency below. There shall follow a statement of the facts relevant to the issues presented for review, with appropriate references to the record (see section (e)).

(5) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on.

(6) A short conclusion stating the precise relief sought.

(b) *Brief of the appellee.* The brief of the appellee shall conform to all the requirements of section (a) of this rule, except that a statement of the issues or of the case need not be made unless the appellee chooses to do so.

(c) *Reply brief.* The appellant may file a brief in reply to the brief of the appellee, and if the appellee has cross-appealed, the appellee may file a brief in reply to the response of the appellant to the issues presented by the cross-appeal. No further briefs may be filed except by leave of court.

(d) *References in briefs to parties.* Counsel will be expected in their briefs and oral arguments to keep to a minimum references to parties by such designations as "appellant" and "appellee." It promotes clarity to use the designations used in the lower court or in the agency proceedings, or the actual names of parties, or descriptive terms such as "the employee," "the injured person," "the landlord," "the tenant," or "the husband."

(e) *References in briefs to the record.* References in the briefs to parts of the record shall be to the pages at which those parts appear.

(f) *Reproduction of statues, rules, regulations, etc.* If determination of the issues presented requires the study of statues, rules, or regulations, or relevant parts thereof, they shall be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form.

(g) *Length of briefs.* Except by special order of court the brief for appellant or appellee shall not exceed 50 pages in length; a reply brief, if any, shall not exceed 20 pages.

(h) *Citations in briefs.* Any published opinion or order of this court may be cited in any brief. Unpublished opinions or orders of this court shall not be cited in any brief, except when they are relevant under the doctrines of the law of the

case, res judicata, or collateral estoppel, or in a criminal action or proceeding involving the same defendant, or in a disciplinary action or proceeding that (1) was decided prior to January 1, 1991, or (2) involves the same respondent.

(i) *Briefs in cases involving cross-appeals.* If a cross-appeal is filed, the plaintiff in the court below shall be deemed the appellant for the purposes of this rule, unless the parties otherwise agree or the court otherwise orders. The brief of the appellee shall contain the issues and argument involved in the appellee's appeal as well as the answer to the brief of the appellant.

(j) *Briefs in cases involving multiple appellants or appellees.* In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

(k) *Citation of supplemental authorities.* When pertinent and significant authorities come to the attention of a party after the brief has been filed, or after oral argument or submission but before decision, a party may promptly advise the clerk, by letter (four copies), with copies to all counsel, setting forth the citations. The letter shall refer either to the page of the brief or to a point argued orally to which the citations pertain, but shall state without argument the reasons for the supplemental citations. Any response (four copies) shall be made promptly and shall be similarly limited. If the supplemental authorities are not readily available in published form, the party submitting the letter shall also submit four copies of the supplemental authorities to the court. (Amended, eff. Apr. 5, 1991.)